

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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**ANDREAS PEFANIS on behalf of himself
and others similarly situated,**

INDEX NO: 08-CV-002 (DC)

Plaintiff,

v.

WESTWAY DINER, INC.,

Defendant.

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DECLARATION OF ANDREAS PEFANIS

I, Andreas Pefanis, under penalty of perjury, affirm as follows:

1. I am a New York resident and the named plaintiff in the above-captioned matter.
2. I submit this declaration based on personal knowledge unless indicated otherwise.
3. I began working as a waiter at Westway Diner in 2006. I resigned from Westway Diner in November 2007.
4. I typically worked six days a week. I usually worked ten to thirteen hours per day. I regularly worked over fifty hours a week.
5. I was paid weekly. My paychecks always reflected fewer hours than I actually worked. I never received a cash supplement to my paycheck.

6. Although I occasionally received some overtime pay at the rate of one and one half times the minimum wage for hours worked over forty in a week, I was never paid for all of the overtime that I worked.

7. I was never paid an extra hour's pay at the minimum wage on days I worked ten or more hours.

8. Other waiters were subject to the same pay practices as I was. For example, George Alexander, Spiros (last name unknown), George (last name unknown), Ricky (last name unknown), and Alex (last name unknown) all told me that they were not paid for all the hours they worked, including overtime hours.

9. Current Westway employees have told me that they are afraid to join this lawsuit because they do not want to lose their jobs.

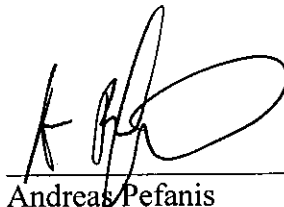
10. The assistant manager at a restaurant where I worked after Westway told me that Kyriakos Dafnos had called the owner of the restaurant and said I was a rat and should be fired.

11. I am willing to serve as a class representative in this case.

12. I have no known conflicts with any class member.

13. I am available to prosecute this case. I am ready, willing, and able to participate in discovery, including responding to interrogatories and document requests and being deposed.

Date: March 10, 2009



Andreas Pefanis